

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMILAH MONIQUE MCCRAY,

Plaintiff,

v.

CITY OF AMERICAN CANYON CITY
HALL, ET AL.,

Defendants.

No. 2:22-cv-01684-DJC-KJN (PS)

FINDINGS AND RECOMMENDATIONS TO
DISMISS WITHOUT PREJUDICE FOR
FAILURE TO PROSECUTE

Plaintiff filed this action in this court, along with a request leave to proceed in forma pauperis, on September 26, 2022. (See ECF Nos. 1, 3.) On February 28, 2023, the court granted plaintiff's IFP request and dismissed the complaint with leave to amend for failure to state a claim for relief under Federal Rule of Civil Procedure 8(a). (ECF No. 3.) Plaintiff was given twenty-eight (28) days to amend the complaint and was warned that failure to do so by the required deadline could result in dismissal. (Id. at 5.) The clerk's office attempted to serve the order on plaintiff at the address provided by mail, but on March 13, 2023, the U.S. Postal Service returned the order as undeliverable.

Under Local Rule 183(b), a party appearing pro se must keep the court advised as to his or her current address. If mail directed to a pro se plaintiff by the clerk is returned by the U.S. Postal Service, and the plaintiff fails to advise the court of a current address within sixty-three (63) days,

1 the court may dismiss the action without prejudice for failure to prosecute. L.R. 183(b). Here,
2 plaintiff was to notify the court of any change of address by May 22, 2023, i.e., within sixty-three
3 (63) days of the court's March 13, 2023 order. Because that date passed and plaintiff has not
4 notified the court of a current address, the court recommends that plaintiff's claims be dismissed
5 without prejudiced.

6 **RECOMMENDATIONS**

7 Accordingly, IT IS HEREBY RECOMMENDED that:

- 8 1. Plaintiff's claims be DISMISSED without prejudice under Local Rule 183(b); and
9 2. The Clerk of Court be directed to close this case.

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
12 days after being served with these findings and recommendations, any party may file written
13 objections with the court and serve a copy on all parties. Such a document should be captioned
14 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
15 shall be served on all parties and filed with the court within fourteen (14) days after service of the
16 objections. The parties are advised that failure to file objections within the specified time may
17 waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th
18 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

19 Dated: May 30, 2023

20 
21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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